IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE M.NARAYANA REDDY

WRIT APPEAL NO : 121 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 23/12/2004 in WP NO : 24069 OF 2004 on the file of the High Court.)

Between:

K. Kadiramma, D/o Late Saddala Boya,
H/o Valasapalli, Nimmanapalli (M), Chittoor District.

..... APPELLANT

AND

1 The Commissioner Appeals Office of the Chief Commissioner of Land Administration, Hyderabad.
2 The Joint Collector, Chittoor , Chittoor District.
3 The Mandal Revenue Officer, Nimmanapalli (M), Chittoor District.

.....RESPONDENT(S)

Counsel for the Appellant: MR.R.RADHA KRISHNA REDDY

Counsel for the Respondent Nos.1 to 3: GP FOR ASSIGNMENT

The Court made the following Oral Judgment: (per Sri Devinder Gupta, CJ)

Appellant is aggrieved by the order of the learned single judge disposing of the writ petition directing the appellant/petitioner to apply afresh for assignment of any other land, without considering the case of the appellant-writ petitioner that her possession on the land in question was not disturbed.

The facts in nut shell are that the land in an extent of Ac.4.96 cents in Survey No.374/1 situated in Chinna Machireddigaripalli Village, Nimmanapalli Mandal had been assigned to one Sri K. Dasappa, S/o. Kadirappa. Admittedly, the original assignee or his sons are not in possession of the land. The Mandal Revenue Officer, Nimmanapalli without cancelling the said assignment proceeded to grant D.K.T. patta for land Survey No. 374/1 to an extent of Ac.4.96 cents to Sri Saddela Boyakondappa vide A.M. No.217/4/95, dated 26.5.1986 and Sri Saddela Boyakondapa had been in occupation of the land and after his death, appellant herein is in possession of the said land. On coming to know of the fact that earlier, 'D' Form Patta which had been granted to One K. Dasappa had not been cancelled and DKT patta had been granted to the father of the appellant herein, proceedings were initiated to cancel appellant-petitioner's patta. The Joint Collector, Chittoor District had not only directed for cancellation of the 'D' form patta of the appellant's father, but also ordered the Mandal Revenue Officer, Nimmanapalle to resume the land and distribute the same to eligible landless poor persons.

Feeling aggrieved, appeal was filed before the Commissioner of Appeals by the appellant herein. On 21.5.2004, the Commissioner dismissed the appeal further noticing the facts. Against the said order, Writ Petition No. 24069 of 2004 was filed. Learned single judge dismissed the writ petition with liberty reserved to the appellant-petitioner to file a fresh application for assignment of any other land.

We have heard the learned counsel for the parties and have gone through the record.

It is not in dispute that Sri K. Dasappa or his sons are not in possession of the

land and ever since the land was assigned in favour of the appellant's father in May, 1986, appellant's father and thereafter appellant has been in possession of the said land. In case, there has been any procedural irregularity in not formally cancelling the 'D' form patta granted in favour of K. Dasappa, direction would have been issued to cancel both the pattas and after cancellation, the Joint Collector would have formally issued fresh patta in favour of the appellant-petitioner herein. But, the direction which had been eventually issued was to assign the land to other eligible landless poor persons, which was not in consonance with equality of justice. After all, the fault lies on the part of the revenue authorities. Before assigning the land to the father of the appellant herein, the "D' form patta granted in favour of K. Dasappa ought to have been cancelled. Otherwise, no claim had been raised by K.Dasappa and his sons who were not in occupation of the land and the occupation of the appellant is not disputed.

Accordingly, the appeal is allowed. The impugned orders are set aside including that of the Commissioner of Appeals with direction to the Mandal Revenue Officer, Nimmanapalli, Chittoor District that after cancelling the 'D" Form pattas of Sri K.Dasappa as well as Saddala Boyakondappa, without disturbing the appellant's possession, fresh patta be granted to the appellant herein of the same land in accordance with law. No costs.

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DEVINDER GUPTA, CJ

Date: 1st February, 2005

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M. NARAYANA REDDY,J

Pnb

To

1 The Commissioner Appeals, Office of the Chief Commissioner of Land Administration, Hyderabad.
2 The Joint Collector, Chittoor , Chittoor District.
3 The Mandal Revenue Officer, Nimmanapalli (M), Chittoor District.

4 Two C.Cs. to the Government Pleader for Assignments, High Court Buildings, Hyderabad. (OUT)

5 Two C.D.copies